

this material is estimated in the millions of tonnes, with many developing countries and non-governmental groups urging a ban on such exports to LDCs.¹⁸

In light of the risk of damage to human health and the environment posed by hazardous and certain other wastes, 116 countries negotiated the 1989 Basel Convention to regulate the transboundary movement and subsequent disposal of such material. The Convention entered into force in 1992, with the first meeting of the governing body (the Conference of the Parties) occurring in December of that year. At that time, only 35 countries had actually ratified the Convention, including Canada, France, the Nordics, and several developing countries such as Mexico, but excluding most of the major generators of hazardous wastes: the U.S., Germany, Italy, Japan, Russia and the U.K.¹⁹

Parties to the Convention undertake obligations, many of which, regrettably, are ambiguous and open to varying interpretations and, potentially, de facto rule-making.

The Convention lists several categories of hazardous wastes (Annexes I and III), but also allows any Party to expand that list unilaterally in keeping with local law.²⁰ This is fine, it can be argued, in terms of ensuring that each country can define its own level of protection. But it also has the potential indirect result of unilaterally limiting exports to another country that may be prepared to accept such wastes for disposal, recovery or recycling.

For their part, "other" wastes are listed separately (Annex II) and currently comprise two categories: wastes collected from households, and residues arising from their incineration. It is not clear whether household wastes could include newspapers, cans and bottles destined for increasingly important commercial recycling through a parallel collection system (e.g., residential "blue boxes"). Many officials familiar with the still incipient Basel practice state that Basel is not intended to cover this material. Support for this view can be found in a 1992 OECD Decision on wastes destined for recovery, which makes an apparently sharp distinction between household waste (on the amber list subject to special transboundary movement controls) and a range of non-hazardous wastes on a "green" list (including newspapers

¹⁸ For example, between 1986 and 1988, 3.5 million tonnes of hazardous wastes were shipped to developing countries - see UNEP/CHW.1/24, paragraph 8.

¹⁹ The U.S. implementing legislation has been stuck in Congress.

²⁰ Article 1(1)(b), in UNEP/IG.80/3 of March 22, 1989.